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Exhibit B: Division Order 10 A Findings

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On August 17, 2010, the Division issued Order DO10A finding:

**SECRETARY, BOARD OF
OIL, GAS & MINING**

1. The Crandall Canyon Mine experienced catastrophic coal bursts and subsequent collapse of the strata above the mine workings on August 6 and 16, 2007. Genwal Resources, Inc. subsequently closed the mine and placed stoppings in the portals.
2. Genwal Resources, Inc. has a valid permit that is in a period of approved temporary cessation. The temporary cessation status does not relieve the permittee from compliance with permit conditions (R645-301-515.310), and in particular the permittee must continue water treatment operations (R645-301-515.321).
3. The BLM approved a revision to the Resource Recovery and Protection Plan (R2P2) for the Crandall Canyon Logical Mining Unit on March 30, 2010. The revised R2P2 states that mining will resume in 2012.
4. In January of 2008, water began discharging from the north portals due to gravity flow. The approved Mining and Reclamation Plan (MRP) states that there will be no postmining gravity discharge of mine water. Rule R645-301-731.520 requires mines to be designed to prevent gravity discharges. A Division Order (DO 08A) was issued on April 22, 2008 requiring Genwal to make requisite permit changes and update the MRP to include a plan for the discharge of post-reclamation mine water in accordance with R645-301-551, R645-301-731.521, and R645-301-751.
5. In October of 2008, iron concentrations in the mine-water discharge began to consistently exceed the limit of 1 mg/L authorized under the Utah Pollution Discharge Elimination System (UPDES) Permit UT0024368. A second Division Order (DO 09A) was issued November 24, 2009 and revised December 21, 2009 requiring Genwal to submit an application for a permit change to: include a operating cost estimate for the ongoing and continual treatment of the mine water discharge based on the plans that were proposed at that time; and to post an amount of money for a treatment trust fund in an amount sufficient to generate an annuity equal to the estimated costs of water treatment.
6. The Division may only allow postmining gravity discharge of mine water if the water complies with the performance standards of the R645 rules and UPDES permit requirements. (R645-301-731.520)
7. The Division has modified the times for compliance with Division Orders DO08A and DO09A as information about the nature of the mine water discharges and potential treatment methods have been revised. To date, Genwal Resources, Inc. has failed to fully comply with either Division Order

The deadline for compliance with the requirements of DO08A was continued on July 2, 2008 until October 2, 2008 due in part to the need to also address the Crandall Canyon Mine disaster Memorial permit change. It was extended again until Dec. 1, 2008. On June 23, 2009 a final extension was given until August 1, 2010 for completion and approval of the revised MRP.

The dates for compliance with the requirements of DO09A originally required Genwal to submit a permit change application within 30 days and to submit a bond to cover ongoing and continual treatment of water within 60 days. On December 22, 2009 the DO was revised and the dates were extended until March 1, 2010 to submit a plan and until March 18, 2010 to submit the bond.

8. On March 1, 2010 Genwal sent a response and technical evaluation concluding that they considered the mine discharge to be an operational problem that will not require long-term postmining treatment. Genwal committed to providing a design for a treatment facility by May 1, 2010 and to address the water discharge treatment and bonding as part of their 2013 permit renewal.
9. The Division responded that this was not an acceptable or agreeable solution.
10. On June 7, 2010, the Division completed a report titled Hydrologic Evaluation of the Crandall Canyon Mine Discharge (enclosed). The Evaluation thoroughly examined the discharge of water from the Crandall Canyon Mine workings and associated concentrations of iron. It also discussed the efforts made by the operator to treat the water to reduce the iron concentration to a level that is below the UPDES criterion. The Hydrologic Evaluation made four findings:
 - (a) Water is likely to continue to flow from the mine workings in perpetuity;
 - (b) The source of the elevated iron is most likely pyrite found in the coal and the surrounding strata as it becomes exposed to groundwater;
 - (c) The mine discharge water is high in sulfate and iron which is consistent with oxidation of pyrite and the rate of oxidation does not appear to be slowing; and
 - (d) Based on these findings there is a likelihood of a perpetual discharge of mine water containing elevated concentrations of iron, which will require ongoing treatment.

The Hydrologic Evaluation made the following recommendations:

- (a) The Operator should collect additional information on the chemistry and flow of the mine water discharge. The additional information is needed to evaluate treatment options, provide information for postmining treatment system design, and to provide baseline data to evaluate changes in the discharge over time.

- (b) The Operator should revise the Probable Hydrologic Consequences (PHC) determination for the Crandall Canyon Mine to reflect current conditions. The new PHC must address the impact to water quality and aquatic habitat and include water-monitoring recommendations. The Division must revise the Cumulative Hydrologic Impact assessment (CHIA) based on the new PHC and the information in the Hydrologic Evaluation report.
- (c) The Operator should complete a comprehensive investigation and treatment study to evaluate the potential feasibility of treatment technologies and conduct treatment testing to assess the effectiveness and costs associated with treatment alternatives.
- (d) The Operator should revise the MRP to accurately describe the “operational” treatment system and include a summary of the actual capital and operating costs of the “operational” treatment system.

11. Based on this Evaluation Report and further consideration of the facts and applicable regulations, the Division makes these additional Findings of Permit Deficiency:

- (a) The bond for the Crandall Canyon Mine must be increased to cover long-term, and likely perpetual treatment of the mine-water discharge. The bond will consist of a trust fund or other funding instrument, to be established immediately, which will yield a yearly payment sufficient to cover mine-water treatment costs in perpetuity. The Division has estimated the yearly operating cost to be \$325,000. The amount will be adjusted when more accurate operational and postmining water treatment costs are provided to the Division.
- (b) The Division cannot allow operations to continue under the permit unless there is assurance that the operations will comply with certain necessary conditions of the permit, both during and after mining. The federal law and regulations, along with the Utah Statute and regulations require that there be no material damage to the hydrologic balance outside the permit area. This is a necessary condition of the permit, and there is no evidence that the polluted mine-water discharge will cease upon complete reclamation of the Crandall Canyon Mine, and thus adequate funding for perpetual treatment is a necessary condition of the permit.

